United Nations S/2005/95

# Security Council

Distr.: General
22 February 2005

Original: English

## Letter dated 14 February 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 16 December 2004 (S/2004/1009). The Counter-Terrorism Committee has received the attached fourth report from Andorra submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

05-25629 (E) 150305 040405

## Annex

### Letter dated 11 February 2005 from the Permanent Representative of Andorra to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

At the request of my Government, I have the honour to transmit to you the fourth report to be submitted by the Principality of Andorra to the Counter-Terrorism Committee (see enclosure).

My Government will be happy to provide the Committee with such additional information as it considers necessary.

(*Signed*) Julian **Vila Coma**
Ambassador
Permanent Representative

**Enclosure**

[Original: French]

## Responses to the comments and questions concerning the content of the fourth report submitted pursuant to Security Council resolution 1373 (2001)

### Introduction

In accordance with its obligations under paragraph 6 of Security Council resolution 1373 (2001), the Andorran Government submitted a detailed report on 21 December 2001. In response to the requests of the Committee contained in its letters of 1 April 2002 and 7 April 2003, two supplementary reports providing additional information on the issues previously addressed were submitted on 10 September 2002 and 10 May 2004, respectively.

The present report, which is the fourth report submitted by the Andorran Government, responds to the questions raised by the Committee in its letter of 15 November 2004.

Once again, the report has been prepared in close collaboration with all the Ministries concerned, namely, the Ministry of Finance, the Ministry of the Interior and Justice and the Ministry of Foreign Affairs, with the participation of the Money-Laundering Prevention Unit (UPB).

We remain entirely at the disposal of the Counter-Terrorism Committee for any further information that may be required.

**1.1 The Committee would appreciate receiving progress reports on:**

Complete revision of the Penal Code:

– Although work on the drafting of the new Penal Code is already finished, the Andorran Parliament still has to submit this text for approval by the absolute majority of its members.

Accession of Andorra to the twelve United Nations Conventions:

– See paragraph 1.3 below.

**1.2 Has the Principality of Andorra adopted measures to prevent terrorist and other criminals from having unfettered access to wire transfers to move their funds?**

Wire transfers are part of the everyday activities of banks, and for this reason the monitoring of compliance with rules and regulations governing such transfers comes under the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime.

All individuals covered by this Act whether or not they form part of the financial system, are required under article 51 (a) to be vigilant in all operations, including wire transfers which, although not defined as suspect, take place in complex or unusual conditions and do not seem to be justified economically or to

serve a lawful purpose. Such vigilance must be stepped up in the case of operations that may be linked to money-laundering.

Article 51 (c) of the Act makes it mandatory for banks and other non-banking entities of the financial system to check the identity of their clients.

In the case of physical persons, proof of identity requires presentation of an official identity document bearing a photograph and must also entail the checking of domicile and occupation.

In the case of legal entities, financial entities must demand a certificate of registration in the Business Register and identify the physical person who, in accordance with the documentation submitted, holds power of attorney.

In all cases, and pursuant to paragraph (d) of the same article, financial institutions must check promptly the identity of the true beneficiaries of the requested transaction. In this connection, UPB Regulations lay down that financial institutions must obtain all further information needed for them to be able to ascertain the identity and business of their clients as well as the origin and purpose of the operations to be carried out.

Similarly, the Regulations make it mandatory for financial institutions, again in accordance with article 51 of the Act, to demand to know and obtain proof of the identity of non-clients requesting currency exchange transactions in an amount higher than 1,250 euros or for smaller amounts repeatedly.

1.3 **Has Andorra become a party to any of the international anti-terrorism instruments?**

**What steps have been taken by Andorra to incorporate into domestic law the provisions of these Conventions?**

Since its last report, the Principality of Andorra has acceded to the following Conventions:

- International Convention against the Taking of Hostages, signed at New York on 17 December 1979;
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New York on 14 December 1973;
- International Convention for the Suppression of Terrorist Bombings, signed at New York on 15 December 1997;
- Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970.

The instruments of accession by Andorra to the first three Conventions, approved by the Andorran Parliament on 14 April 2002 and mentioned in the last supplementary report, were deposited with the Secretariat of the United Nations on 23 September 2004 and entered into force on 23 October 2004.

The instrument of accession by Andorra to the Convention for the Suppression of Unlawful Seizure of Aircraft was deposited on 23 September with the Russian Government, on 6 October 2004 with the United States Government, and on

24 September with the Government of the United Kingdom. It entered into force on 5 November 2004.

It is also important to note that all the international conventions or treaties adopted by Andorra form an integral part of domestic legislation upon their entry into force. Article 3 of the Constitution of Andorra provides that international treaties and agreements take effect in the country's legal system from the moment of their publication in the Official Gazette of the Principality of Andorra and cannot be amended or repealed by law. It follows that Andorra fulfils its international obligations under treaties to which it is a party for the prevention of the financing of terrorism without having to adopt specific measures in its domestic legislation.

Lastly, the Parliamentary Commission that prepared the complete revision of the Penal Code gave consideration to the incorporation into the new text of all the provisions of criminal law set out in the treaties in force and in the anti-terrorism conventions. This means that, in accordance with Andorran law, the remaining conventions, whose legal and technical implications have now been fully studied, may be referred to the General Council (Parliament) for ratification upon resumption of the parliamentary session in the spring of this year.

**1.4 How does Andorra ensure that there is adequate cooperation and information-sharing among the various government agencies that may be involved in investigating the financing of terrorism, including their foreign counterparts?**

The Andorran Government continues to cooperate, in keeping with the provisions of articles 55 and 56 of the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime, with other equivalent foreign agencies without a pre-existing agreement with the other party. However, the financial intelligence units of some countries requested that such cooperation should be underpinned by a bilateral agreement. The Andorran Money-Laundering Prevention Unit has therefore given priority to those countries and has signed Memoranda of Understanding with the Bahamas, the Netherlands Antilles, Peru and Thailand.

**1.5 Does Andorra impose controls on the cross-border movement of cash, negotiable instruments, precious stones and metals? Please also provide information concerning any relevant monetary or financial thresholds.**

As regards cross-border customs controls on the initiative of Andorra, it should be noted that:

- The presence of the Andorran Customs at the legal borders of the country is effective and permanent;
- Irrespective of the treatment of merchandise declared at customs, spot checks are carried out on vehicles and persons crossing the border in order to find any undeclared or smuggled merchandise they may be seeking to import or export. This includes, in particular, precious stones and metals and other items of jewellery;
- However, the Andorran customs does not take direct action in respect of movements of cash, negotiable instruments or any other means of payment.